REMARKS

Claims 1-31 are pending in the present application. Claims 7, 9, 23 and 25 are allowed. Reconsideration of the claims is respectfully requested.

I. Allowable Subject Matter

The Office Action states that claims 7, 9, 23 and 25 are allowed. Applicants thank Examiner LeChi Truong for the allowable subject matter.

II. 35 U.S.C. § 102, Alleged Anticipation Based on Ben Rafanello

The Office Action rejects claims 1-6, 8, 10-22, 24 and 26-31 under 35 U.S.C. § 102(a) as being allegedly anticipated by Ben Rafanello, "A Fully Integrated Logical Volume Management System (LVMS)", IBM, May 2000, hereinafter referred to as *Rafanello*. This rejection is respectfully traversed.

The inventorship of the cited art, *Rafanello*, includes each of the inventors of the present invention as discussed hereafter, and therefore it is not prior art under 35 U.S.C. § 102(a). Ben Rafanello is the author of *Rafanello* and one of the inventors of the present invention. Attached are four Declaration under Rule 1.132 documents; each Declaration under Rule 1.132 document is signed by one of the inventors of the present invention. The attached Declarations under Rule 1.132 state that the subject matter of *Rafanello* was derived from the knowledge of the inventors named in the present invention and that the subject matter of *Rafanello* was derived from the work of the inventors in the making of the present invention.

Section 716.10, paragraph 3, of the MPEP states:

> However, it is incumbent upon the inventors named in the application, in response to an inquiry regarding the appropriate inventorship under 35 U.S.C. 102(f) or to rebut a rejection under 35 U.S.C. 102(a) or (e), to provide a satisfactory showing by way of affidavit under 37 CFR 1.132 that the inventorship of the application is correct in that the reference discloses subject matter derived from the applicant rather than invented by the author, patentee, or applicant of the published application notwithstanding the authorship of the article or the inventorship of the patent or published application. In re Katz, 687 F.2d 450, 455, 215 USPQ 14, 18 (CCPA 1982) (inquiry is appropriate to clarify any ambiguity created by an article regarding inventorship and it is the incumbent upon the applicant to provide "a satisfactory showing that would lead to a

reasonable conclusion that [applicant] is the ... inventor" of the subject matter disclosed in the article and claimed in the application). (emphasis added)

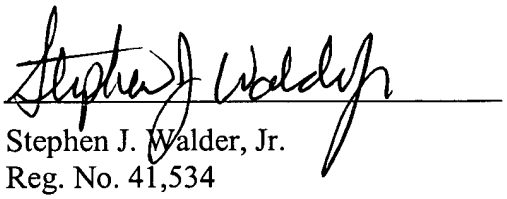
Under 35 U.S.C § 102(a), a claim may be rejected if the invention recited in the claim was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent. The attached declarations illustrated that the presently claimed invention was invented prior to the publication date of *Rafanello* in May 2000. That is, since the work of the presently claimed invention was used to derive *Rafanello*, the presently claimed invention was created prior to the creation of *Rafanello*. Therefore, *Rafanello* is not prior art under 35 U.S.C. § 102(a). Accordingly, Applicants respectfully request withdrawal of the rejection of claims 1-6, 8, 10-22, 24 and 26-31 under 35 U.S.C § 102(a).

III. Conclusion

It is respectfully urged that the subject application is patentable over the cited references and is now in condition for allowance. The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

DATE: October 14, 2004

Respectfully submitted,



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